

HIGHLAND BOARD OF ZONING APPEALS
Minutes of the Meeting of
June 27, 2018

The Highland Board of Zoning Appeals met on June 27, 2018 in the meeting room of the Municipal Building, 3333 Ridge Road, Highland IN. Mrs. Murovic called the meeting to order at 6:30 p.m. The meeting opened with the Pledge of Allegiance led by Mr. Leep.

ROLL CALL: Present were Mr. Helms, Mr. Martini, Mr. Grzynski, Mr. Leep and Mrs. Murovic. Also present were Attorney Mr. Jared Tauber and Building Commissioner Mr. Ken Mika.

MINUTES: The minutes of the May 23, 2018 were approved as posted.

ANNOUNCEMENTS: The next meeting of the Board of Zoning Appeals to be July 25, 2018 at 6:30 p.m.

Communications: None

Old Business: Approval of Findings of Fact for Richard P. Traybsza, 9444 Forrest Dr., Highland, requesting a variance to move fence beyond build line. Property is on a corner. {HMC 18.05.060}(G)(5)(a) Permitted Obstruction in Required Yards. The following shall not be considered to be obstructions when located in the required yards specified: (a) In All Yards. Ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed 12 inches; open terraces or decks not over four feet above the average level of the adjoining ground but not including a permanent roofed-over terrace or porch and not including terraces or decks which project into the required front yard by more than six feet from the front of the principal structure; awnings and canopies; steps which are necessary for access to a permitted building or for access to a zoning lot from a street or alley; chimneys projecting 18 inches or less into the yard; arbors, trellises and flagpoles; fences, screens, hedges and walls; provided, that in residential districts no fence or wall shall be located in the required front yard and no landscaped screen or hedge shall exceed three feet six inches in height if located in the front yard, and no fence, landscaped screen, hedge or wall shall exceed six feet in height if located in a side or rear yard. On a corner or reverse corner lot, the side yard setback shall be the same as the front yard setback on adjoining lots; fences shall not be installed beyond this point. No fence, screen, hedge or wall shall interfere with line of sight requirements for local streets or intersections. No fence, screen, hedge or wall shall be constructed of material that may be described as rubble, cardboard, chicken wire, trees and brush, corrugated tin, utility poles, railroad ties, barbed wire, broken glass or electrified material. The design, location and construction of a fence or wall shall be approved by the building commissioner prior to the issuance of a building permit.

Mr. Martini motioned to approve the Findings of Fact. Mr. Leep seconded and it unanimously passed with a roll call vote of 5-0.

Old Business: Approval of Findings of Fact for Burlington Coat Factory, 10225 Indianapolis Blvd., Represented by Guy Dragisic, 1130 North Garfield, Lombard, IL requesting a variance to exceed sign allowance at the location of 10225 Indianapolis Blvd. {HMC 18.85.080 (G)(2)(a)} Each occupancy shall be permitted a maximum of one sign.

Mr. Grzynski motioned to approve the Findings of Fact. Mr. Martini seconded and it was unanimously passed with a roll call vote of 5-0.

Old Business: Approval of Findings of Fact for Joseph & Kathy Kwasny, 3132 97th Place, Highland, IN requesting a variance to move the fence beyond the build line. Property is on a corner. {HMC 18.05.060}(G)(5)(a) Permitted Obstruction in Required Yards. The following shall not be considered to be obstructions when located in the required yards specified: (a) In All Yards. Ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed 12 inches; open terraces or decks not over four feet above the average level of the adjoining ground but not including a permanent roofed-over terrace or porch and not including terraces or decks which project into the required front yard by more than six feet from the front of the principal structure; awnings and canopies; steps which are necessary for access to a permitted building or for access to a zoning lot from a street or alley; chimneys projecting 18 inches or less into the yard; arbors, trellises and flagpoles; fences, screens, hedges and walls; provided, that in residential districts no fence or wall shall be located in the required front yard and no landscaped screen or hedge shall exceed three feet six inches in height if located in the front yard, and no fence, landscaped screen, hedge or wall shall exceed six feet in height if located in a side or rear yard. On a corner or reverse corner lot, the side yard setback shall be the same as the front yard setback on adjoining lots; fences shall not be installed beyond this point. No fence, screen, hedge or wall shall interfere with line of sight requirements for local streets or intersections. No fence, screen, hedge or wall shall be constructed of material that may be described as rubble, cardboard, chicken wire, trees and brush, corrugated tin, utility poles, railroad ties, barbed wire, broken glass or electrified material. The design, location and construction of a fence or wall shall be approved by the Building Commissioner prior to the issuance of a building permit.

Mr. Martini motioned to approve Findings of Fact. Mr. Leep seconded and it was unanimously passed with a roll call vote of 5-0.

Continued Public Hearing for Lisa Whipps, 2151 Hayes Leonard Rd., Valparaiso, IN 46385, regarding property at 9910 Express Drive, An I1 zoned district. {HMC 18.40.030} Permitted Uses.

Ms. Whipps is represented by attorney Jim Wieser, 429 W. Lincoln Highway, Schererville, IN 46375. Mr. Wieser picked up from Ms. Whipps' Public Hearing from April, as he was not able to represent Ms. Whipps in May, on which date Ms. Whipps represented herself. Mr. Wieser explained that after the Continued Public Hearing in May he had a meeting over the phone with Mr. Jared Tauber and Mr. Ken Mika regarding some pending issues over the consideration of the use of the facility. There were two main issues discussed, one was the drainage issue, but more significantly there was an issue regarding the requirement to obtain approval from the State of Indiana because of the change in usage of the property, both for Ms. Whipps and the building's landlord. He pointed out that this requirement would still be needed even though the modifications to the building will be minor, mainly the parking lot and a double-door in the rear of the building. He stated that the main reason they are there is to convince the Board that the proposed gymnastics facility is an acceptable usage for this area, and that it will work with the area and for the purpose for which it is intended. It would not violate any of the statutory prescriptions. Mr. Wieser and Ms. Whipps believe that to be true. He pointed out that to satisfy the State approval, they will need to provide engineered drawings. This would cost an enormous amount of money, and it would just determine whether or not the facility could be used. There would be no guarantee of an ultimate approval. He pointed out that all the checks and balances are in place. A permit will not be issued from Mr. Mika without them providing a state approval and proper engineering. Mr. Wieser added that he is aware of the costs that would be involved for Ms. Whipps to get these requirements met and that they are not even sure yet if they can use

this facility. It would cost Ms. Whipps thousands of dollars just to come back to the Board and ask if they could please recommend the use to the Town Council, which could possibly end up in an unfavorable outcome. Mr. Wieser pointed out that there are time limitations and that there are contractual obligations that have to be met by both the landlord and the tenant. Ms. Whipps is required contractually to be operating by October. There will be a lot of work to be done if and when they get approval to use the facility, so as it stands now they are running out of time. He stated that he believes they have proven that the usage is an acceptable one, so long as the state approval is granted and it has been determined that drainage is sufficient for the property. He stated that they are well aware of the obligations and steps that have to be taken afterwards, if and when the usage has been approved.

Mr. Wieser requested that the Board move forward with a favorable recommendation to the Town Council for the use of this property by Ms. Whipps.

Ms. Murovic opened the discussion to the public. Hearing no remonstrance, she closed the public discussion and brought it back to the Board.

Mr. Helms commented that it wasn't so much that this use would be bad for the area, it was if the area would be good for their use. He asked if they felt they could really make a go of it in this industrial area. Mr. Wieser replied that Mr. Helms' question was a legitimate concern and it was one of the first questions that he had asked Ms. Whipps when she came to his office. He pointed out that Ms. Whipps has had experience with several other locations, one in a very similar area, and that this location in Highland is ideal for her proposed use. The size and structure of the building is perfect for her needs because in gymnastics the roof must be higher and certain areas need to be larger. He also noted that there will be no special events held there, it will only be for gymnastic students to practice and train, as intended. Mr. Martini mentioned the traffic in the area. Ms. Whipps pointed out that they are going to operate after hours and the traffic congestion in this area would not be an issue. She also stated that her other locations are in very congested areas and it has not been an issue due to the business operating after hours.

Mr. Martini asked if there should be contingencies added to the favorable recommendation to the Town Council, to satisfy the issues of state approval and drainage. Mr. Tauber replied that they could, but it would ultimately be up to the Town Council, who is approving or not. He also stated that it was not really necessary, as the approval would be based on taking care of those issues. They could not move forward without meeting those requirements.

Mr. Helms motioned for the favorable recommendation for the Use Variance to the Town Council. Mr. Martini seconded and it unanimously passed with a roll call vote of 5-0.

Public Hearing for Kenneth Hay, 1310 Tralee Ct., Dyer, In 46311, requesting a variance to exceed accessory structure allowance. Asking to build an additional detached three car garage at the location of 10250 Kennedy Ave. {HMC 18.05.060 (F) (5)} In Zoning District R-1A, R-1, R-2, or R-3. The summation of the gross floor area of all accessory structures shall not exceed the gross floor area of the principal structure, or 720 square feet, whichever is less.

Mr. Tauber stated that the Proofs of Publication were in compliance with IC 5-3-1.

Mr. Hay stated that his property at 10250 Kennedy is a total of 5 acres. The property fronts Kennedy Avenue with a total of 184' frontage. He is requesting the construction of a second

garage. The property now has a single family home and a 2-1/2 car garage. He is asking to build an additional 3 car garage. He pointed out that the proposed new garage would be 190' back from Kennedy Avenue, and approximately 45' from his north property line. The purpose of this garage would be to house material and items from a garage he currently owns in Griffith, which is going to be demolished. He is going to replace the old garage with a duplex. His proposed 3 car garage on Kennedy will not be a business of any kind and will be used for storage only, with a workshop on the upper level. There is currently a driveway off of Kennedy that will access this new garage directly. He stated that his proposed garage would be aesthetically pleasing to the eye, referring to the drawing he presented to the Board. He also pointed out that the dimensions of the garage and square footage were noted.

Ms. Murovic opened the discussion to the public.

Ms. Lydia Shotts of 10226 Kennedy Avenue, Highland, IN 46322 asked for clarification of Mr. Hays plans as she thought this was just going to be an extension of a garage. Mr. Hays clarified that the garage on Kennedy will be a new 3 car garage and that he owns a 3 car garage in Griffith that will be taken down and replaced with a duplex. The new garage on Kennedy will store materials from the old garage in Griffith. Ms. Shotts then asked if there were renters currently in the residence on Kennedy Ave. He confirmed there are. She stated that the property is a mess right now. He replied that his tenants that currently reside in the home are within 3 weeks of being evicted.

Ms. Murovic closed the discussion to the public and brought it back to the Board.

Mr. Helms asked for clarification of a few items, if the new garage would not be accessible to the renters or their vehicles and if it was for his use to store construction materials only. Mr. Hay responded that was correct. Mr. Helms also asked about the upper level on the garage and if it would be used for workshop only and not a living space. Mr. Hay confirmed that was correct. Mr. Martini asked about the electric needed. Mr. Hay responded that he planned on installing electric only, and there are no plans for sewer or running water. Mr. Mika expressed that the grass is not being maintained on the property now and he hoped the condition of the property will improve when the tenants leave. Mr. Hay responded that he has plans for this to improve and that he is planning on removing some trees in the future. Ms. Murovic asked about the garage height and Mr. Hay stated that the garage will be 19'4". She pointed out that the maximum allowed height is 18'. Mr. Mika added that there would be a variance required for any garage over 18'. Mr. Hay confirmed he understood. Mr. Martini pointed out that in the past they had turned many petitioners down due to the height requirement. Mr. Hays apologized and stated that he did not understand that the height would require a 2nd variance. Ms. Murovic pointed out that Mr. Hay could construct the garage at 18' to satisfy this requirement. Mr. Helms asked if the plans were modifiable to meet the height requirement. Mr. Hay responded that it would be difficult for him to modify this particular structure due to the floor joists and roof rafters. He also mentioned that there were other structures that would meet the height requirements, but they were more like a barn and very unattractive. Mr. Hays stated that he would be willing to take out a 2nd variance to keep the plans he has with his proposed roof structure. He understood the limitations and also understood if the Board felt it was not worth taking the time for the 2nd variance.

Mr. Helms asked Mr. Tauber if the Board could make the motion for 2 variances now or if there would be more involved. Mr. Tauber responded that if it is not mentioned in this request, there would be more involved. Mr. Mika added that if this issue was not covered in the original variance request, there would need to be new advertising and there would need to be another

hearing. Mr. Mika explained to Mr. Hay that everything he did for this variance would have to be repeated for the height variance.

Mr. Helms motioned to continue the Public Hearing until the Proofs of Publication and application are received for the 2nd variance regarding the height requirement. Mr. Grzynski seconded and it was unanimously approved with a roll call vote of 5-0.

BUSINESS FROM THE FLOOR: None

ADJOURNMENT: Motion: Mr. Grzynski Second: Mr. Martini Time: 7:07 p.m.